STATEMENT OF

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THE NATIONAL ASSOCIATION OF FEDERAL CREDIT UNIONS

BEFORE THE

HOUSE SMALL BUSINESS COMMITTEE

THE CHALLENGES OF THE 2009 H1N1 INFLUENZA AND ITS POTENTIAL IMPACT ON SMALL BUSINESSES AND HEALTHCARE PROVIDERS

SEPTEMBER 9, 2009

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Good afternoon, Chair Velazquez and Ranking Member Graves and members of the Committee, I am Anthony Demangone, NAFCU's Director of Regulatory Compliance and its Senior Compliance Counsel. I am here today on behalf of the National Association of Federal Credit Unions.

In my role, I represent NAFCU before the Financial Services Sector Coordinating Council (FSSCC), an organization that champions the protection of America's financial critical infrastructure. I am a member of FSSCC's Infectious Disease Forum, and I was a member of the 2007 Financial Services Pandemic Exercise Control Team, which helped manage a financial services industry-wide table top exercise on pandemic preparations.

While the subject of today's hearing focuses on a very unpleasant topic – the unsettling specter of an influenza pandemic -- I want to commend the leadership of the Small Business Committee for holding this hearing to address readiness and preparation within American's small businesses for such a pandemic.

I also want to recognize the early and ongoing efforts of the Administration to develop a national pandemic strategy designed to protect our government, businesses, and the general public. While it is impossible to plan for every contingency or potential outcome that may occur during an active pandemic, in our view, the strategy details a range of issues and recommendations that, if implemented properly, should support continuity of operations within the government, the business sector and throughout our society.

From a credit union perspective, I would like to specifically commend the Department of the Treasury, under the direction of Secretary Geithner, for its efforts in coordinating disaster and pandemic planning, survival and recovery for the financial sector. NAFCU has been working with financial regulators on this important issue and provides education to its member credit unions to help them prepare for the effects of a pandemic. I also want to recognize the work of the FSSCC, of which NAFCU is a member, for its diligence in helping financial institutions identify and address the complex issues surrounding pandemic business continuity planning. This organization, working with Treasury and other financial regulators, took an early lead in helping financial institutions focus on the need for specific planning, educating financial institutions about steps that could be taken to protect staff, members and customers following a wide-spread outbreak.

Credit unions, like the federal government and small businesses, have modified their business continuity plans to address unique and specialized needs that would arise in the event of an influenza pandemic. Guidance from the Treasury Department and financial institution regulators stressed the need for pandemic business continuity planning as far back as 2006.

Specifically, the National Credit Union Administration (NCUA) Board, along with the other federal financial regulatory agencies, provided important guidance to credit unions in the first quarter of 2006 to increase awareness concerning the potential threat of widespread influenza and how financial institutions and their vendors should modify their strategic plans to prepare for particular disasters such as an influenza pandemic. Much of the guidance provided by the financial institution regulators was drawn from the National Strategy for Pandemic Influenza developed by the Administration.

NCUA's guidance is one of a number of activities the agency has undertaken to address pandemic preparedness, both within the agency and with credit unions. Additional efforts the agency has taken include a review of credit union preparedness as part of the agency's risk-focused examination process; guidance for examiners on disaster recovery issues; focusing on records preservation; encouraging credit unions to increase members' access to their accounts via the Internet or other electronic means; and increasing the use of the Treasury Department's direct deposit program, the *Go Direct Campaign*, to help ensure member funds will be available during a pandemic. In particular, with regard to records preservation, NCUA has revamped its regulations to clarify what credit unions must do to prepare for a "catastrophic act." It has also provided recommended guidelines for credit unions to follow in devising their record-keeping plan and to implement in case of a catastrophe.

In short, federal credit unions have been on notice from the NCUA for more than three years that they must develop plans that allow them to maintain operations to serve their memberships during a pandemic. The FSSCC and the Federal government have also provided important information and planning materials to financial institutions, businesses, and the general public at www.pandemicflu.gov.

One of the first steps in developing a strategic plan is the consideration of issues the plan should address. In that respect, in January of 2006, the FSSCC issued a "Statement on Preparations for 'Avian Flu'" and a paper entitled, "Issues of Consideration Regarding Preparations for 'Avian Flu'." As mentioned above, functional regulators such as the NCUA started providing guidance to credit unions to prepare for a pandemic at the same time. The NCUA reiterated key elements for credit unions in a letter addressed to them just this past June. In its letter (NCUA Letter 09-CU-13), NCUA stated:

> *Federally-insured credit unions need to review their disaster preparedness and response plans to ensure their pandemic plan is appropriate for their operation. The plan should include:*
>
> *• A preventative program to reduce the likelihood the operations will be significantly affected by a pandemic event;*
>
> *• A documented strategy which provides for scaling pandemic events including provisions for a possible second and third wave of a pandemic;*
>
> *• A comprehensive listing of facilities, systems, or procedures to continue critical operations if a large number of staff are unavailable for prolonged periods;*
>
> *• A testing program to ensure the pandemic planning practices and capabilities are effective;*
>
> *• An evaluation of critical service provider plans for operating during a pandemic; and*
>
> *• An oversight program to ensure ongoing review and updates are made to the pandemic plan.*

Credit unions have listened to this guidance and many have created plans that address the following:

a. Pandemic-related communications to employees, members and their communities.

b. Policies to implement social distancing, proper hygiene, and other "prophylactic" measures.

c. Cross-training of appropriate staff to ensure that they can maintain operations during a pandemic.

d. Review of operations and facility management to ensure a proper response to pandemics.

Additionally, the cooperative nature of the credit union movement means that many credit unions have worked together in preparing, planning and training for a pandemic. As the trade association for federal credit unions, NAFCU has also held numerous pandemic-related educational events and sessions to prepare our members through webcasts, publications, and at conferences. We have and will continue to press this issue.

US Financial Sector Pandemic Exercise prompts further preparations

The Treasury Department, in conjunction with the FSSCC and The Financial and Banking Information Infrastructure Committee (FBIIC) sponsored an industry-wide Pandemic Flu exercise, conducted between September 24 and October 12, 2007. More than 2,700 financial organizations participated in the exercise, which was developed by over 100 individuals from both the public and private sectors. As a result of the exercise, more than 400,000 questionnaire responses were logged. The results demonstrated that even businesses that had pandemic plans in place found a global flu outbreak posed complex issues and areas where more preparation was needed.

Specifically, the exercise highlighted the need for organizations to include a pandemic-specific focus in their overall business continuity planning efforts. The exercise was designed to stress test the continuity plans of the participating institutions, by simulating absentee rates of up to 49 percent across the country and further stressing key infrastructure, resulting in notable service degradation. The opportunity to test plans and identify systemic risks and critical dependencies provided participants the opportunity to foster strategic thinking, examine key management issues and strengthen overall sector preparedness.

Past Disasters Indicate Potential Weaknesses That May Resurface

A pandemic would undoubtedly differ from a natural disaster like a hurricane, yet lessons learned from how the Hurricane Katrina catastrophe and its aftermath were handled are useful for preparations for a pandemic planning.

In the first few weeks and months after Hurricane Katrina hit, all aspects of the credit union system, including credit unions from states outside the hurricane area and credit union leagues and the national trade organizations, worked together to provide assistance and coordinate relief efforts within the system. A report from the Federal Financial Institutions Examination Council (FFIEC) indicates that business continuity plans generally worked well and allowed institutions to restore operations.

However, there were major difficulties experienced by institutions in the area, including credit unions. This included destruction of offices and facilities; lack of workable phones or other communication devices; lack of power or fuel for generators; lack of transportation; inability to provide cash through ATMs; inability of personnel whose homes were destroyed or damaged to come to work to staff their institutions; and no delivery or mail service, to name some of the most notable problems.

Further, as has been widely acknowledged, governments should have been better-prepared, responded more quickly, coordinated their efforts more effectively, and communicated with those affected, as well as the nation, in a more timely and comprehensive manner throughout the crisis.

Previous national tragedies such as the attacks of September 11, 2001 and the bombing of the federal building in Oklahoma City in 1995 also reinforced, among other things, the need for all financial institutions to maintain an ongoing record retention program.

All of these disasters – apart from the range of human issues -- brought into focus a number of real, operational concerns for financial institutions, including how to respond to members' needs for cash and how to meet compliance responsibilities. Failure to meet some of the compliance responsibilities may carry penalties and fines for noncompliance, despite an institution's impairment or inability to operate. They also provided us with lessons that can be useful in preparing for a pandemic.

For example:

- It is important that financial regulators continue providing guidance to financial institutions and that they be proactive in communicating information to the institutions they regulate during a pandemic;

- Financial regulators should provide reasonable leeway to impaired institutions regarding compliance responsibilities; and
- Communication among all levels of government on a timely basis is essential.

Recommendations

We also recognize that influenza pandemics are vastly different from other catastrophes, and planning for it has taken this into consideration. NCUA and the other financial regulators have recognized this in their guidance. While financial institutions have begun to prepare, some questions remain unanswered. The following issues, if clarified by Congress and the federal government, would help America's credit unions better prepare for future pandemics.

1. Information. The financial services sector needs accurate and timely information about any developments concerning the current pandemic and what steps the federal, state and local governments are taking in response. How governments handle schools and day care centers closing down directly impacts credit union operations and pandemic response methodologies. In addition, credit unions need information about any potential hurdles that face pandemic-related business continuity plans. For example, will credit unions be able to rely on the telecommunications infrastructure if workers wish to work from home? If not, such information should be made readily available.

2. Regulatory Flexibility. With credit unions facing high levels of absenteeism during a pandemic, it will be difficult for them to comply with many regulatory requirements. Staff trained to comply with the Bank Secrecy Act may be home sick for long periods of

time. Credit unions may need to postpone or cancel mandatory member meetings. Vendors that supply member statements will also face staffing/supply interruptions. Therefore, regulators might consider easing periodic statement requirements (let's not forget that the United States Postal Service and other vendors will be facing high absenteeism as well). Filing deadlines may need to be relaxed, as the employee(s) normally responsible may be at home sick, scared, or caring for loved ones. If we have this flexibility plan in place beforehand, financial regulators will not have to answer repeated questions during a pandemic - when the regulators themselves may have high absenteeism. While the members of the FSSCC have been meeting with financial regulators on this issue and will continue to do so, progress in this area is vital. NAFCU and credit unions continue to work with the NCUA and await their guidance on regulatory flexibility.

3. Authority. Many credit unions continue to ask questions concerning who will be responsible in a given area for pandemic-related issues. Will the federal, state or local governments decide if a quarantine (or closing of businesses) is necessary? Or will this be a private decision made by each business, one at a time? When and how will financial regulators decide when any pre-planned regulatory flexibility will go into effect? In addition, is there a "best practices" as to when businesses should activate pandemic plans? History has shown that an early, well-organized and thorough response to a pandemic will lessen its impact. While a strong, early response seems best, it is unclear as to who will force such a unified response. The flip side is the question of who will give the "all's clear" signal once a pandemic has passed.

4. Liquidity. The impact of Hurricane Katrina demonstrated the need to have cash available to meet liquidity needs. The current economic crisis has demonstrated the importance of liquidity for financial institutions. Should the current pandemic develop more deeply into a healthcare crisis, it will surely strain liquidity and put more challenges on financial institutions already facing a tough environment. For example, credit unions and other financial institutions will still need tellers in addition to staff to supply ATMs with cash.

In raising these issues, I do not mean to criticize the efforts made to date by government officials to prepare for pandemics. As I have stated earlier, speaking on behalf of NAFCU, I wish to praise the current Administration, the FSSCC, financial regulators, and this committee for all their efforts. I raise these issues in the hope that we can address them.

Conclusion

Thank you for the opportunity to provide our views on this timely topic. Again, I commend the Small Business Committee for its commitment to addressing concerns relating to a pandemic and will be pleased to respond to any questions the Committee members may have.